his covenantor (*Hamilton* v. *Cutts,* 4 Mass. 349; *Thomas* v. *Stickle,* 32 Ia. 71) the fact that he purchased the outstanding title will not affect his right to bring an action on the covenant. (*Whitney* v. *Dinsmore,* 6 Cush. 124.) Where the covenantor suffered the property to be sold under a judgment after the covenantee had taken possession and the covenantee purchased the outstanding title in good faith, the covenantor will be estopped from denying the validity of the judgment as between himself and the covenantee, even though it was invalid and has since been reversed. (*Smith* v. *Dixon,* 27 Ohio St. 471.) But this would not be the case if the covenantee voluntarily acquired an outstanding title which had vested previous to his purchase and possession. (*Cummings* v. *Holt,* 56 Vt. 384.) The law gives greater protection to the covenantee who takes steps to keep another from acquiring an outstanding paramount title, than it does to the covenantee who voluntarily buys in an outstanding title after it has been acquired by another. Though the failure of the covenantee to prevent the sale by payment of the lien or redemption of the land after sale will neither bar his action on the covenant nor mitigate the damages. *Cain* v. *Fischer,* 50 S. E. Rep. 752 (W. Va.).

VENDOR AND PURCHASER—STATEMENTS OF FACT AND OF OPINION.—Where the vendor of real property told the vendee that "the land was worth fifteen dollars ($15) per acre" and "was good, fertile land, very productive, would raise corn, cotton, fruit and vegetables," it was *held,* that the statement of the value of the land was the mere statement of an opinion and the vendee had no right to rely thereon, but that the statements as to fertility, etc., were statements of fact, and as such the vendee had a right to rely on them, and, if the statements were false, whether innocently or fraudulently made, an action would lie for the injury sustained. *Oneal* v. *Weisman* (1905), — Tex. —, 88 S. W. Rep. 290.

Where the parties are on an equal footing, as where no confidential relation exists between them or where the vendor has no special advantage over the vendee in the means of acquiring his information, a statement as to what the land is worth is a mere expression of opinion which, though false, will not constitute actionable fraud. WARVELLE, VENDORS, Vol. II, § 946. False statements of facts concerning the land as a general rule constitute grounds for damages, though statements as to the price paid for land are often placed in the same category with opinions. *Richardson* v. *Noble,* 77 Me. 390; *Hemmer* v. *Cooper,* 8 Allen 334; *Tuck* v. *Downing,* 76 Ill. 71. False statements as to the rentals (*Speed* v. *Hollingsworth,* 54 Kan. 436), appurtenances (*Monell* v. *Colden,* 13 Johns. (N. Y.) 395), and the quantity of the land (*Porter* v. *Fletcher,* 25 Minn. 493) have been held sufficient to constitute actionable fraud, but CHAPMAN, C.J., (*Mooney* v. *Miller,* 102 Mass. 217) says, "If the representations relate to the quality and productiveness of the soil * * * they are not actionable for they are to be regarded as the usual and ordinary means adopted by sellers to obtain a high price and are always understood as affording to the buyer no grounds for omitting to make inquiries." Statements of fertility refer to the quality of the land and ought to come under the rule concerning statements of opinion, while in the principal case it is very doubtful if the statement that "the land would raise corn, cotton, fruit

and vegetables" can be construed into a statement of fact. It refers to the future possibility of the land rather than to a past or existing condition, and as such it should be regarded as a mere expression of opinion.

WILLS—RIGHT TO DIRECT DISPOSAL OF BODY—IMPOSSIBILITY OF PERFORMANCE OF TESTATOR'S DIRECTIONS.—Testatrix, in her will, directed her executor to bury her in a certain cemetery, and erect a monument to cost $1,000 over her grave. Her husband made no objection to the burial in accordance with the provisions of the will, but over a year later, when the executor attempted to sell real estate to pay for the erection of the monument, caused the body to be disinterred and cremated, the ashes not being returned to the grave. He then resisted the sale on the ground (1) that the direction as to where the body was to be buried was void, as being an attempt to dispose of a dead body by will, and (2) that the second condition could not be complied with because there was no grave where testatrix was buried. *Held,* that the husband, having acquiesced in the burial, was now estopped to deny its validity, and that the grave was sufficiently designated, and that the monument should be erected. *In re Koppikus' Estate* (1905), — Cal. —, 81 Pac. Rep. 732.

Plaintiff's delay unabled the court to decide the case on the ground of estoppel without deciding directly upon the merits of his contention as to the validity of the bequest, which is to be regretted as there is considerable conflict in the United States over the validity of an attempt to dispose of one's body by will. The weight of authority seems to be that such disposal is valid, even against the wishes of the surviving relatives. *Weld* v. *Walker,* 130 Mass. 422, 39 Am. Rep. 465; *Matter of Widening Beekman St.,* 4 Brad. (N. Y. Surr.) 503; *Scott* v. *Riley,* 16 Phila, (Pa.) 156. California, however, after considerable vacillation, holds in its latest decision, *Enos* v. *Snyder,* 131 Cal. 68, 63 Pac. 170, that there is no property in a dead body and consequently an attempt to dispose of it by will is void, following the English rule as laid down in *Williams* v. *Williams,* L. R. 20 Ch. D .659. For a recent criticism of these two cases, see *Pettigrew* v. *Pettigrew* (1904), 207 Pa. St. 317; also XVII GREEN BAG, p. 345, where the cases are collected and discussed. The principal case is important as an excellent illustration of the ingenious, if disreputable, devices to which heirs will sometimes resort to prevent the carrying out of the terms of a will which affect their pecuniary interests.